

ASSEMBLY BILL

No. 844

Introduced by Assembly Member Villines

February 26, 2009

An act to amend Sections 17553, 17557, 17557.2, and 17558 of, and to add Article 1.6 (commencing with Section 17574.6) to Chapter 4 of Part 7 of Division 4 of Title 2 of, the Government Code, relating to state-mandated costs.

LEGISLATIVE COUNSEL'S DIGEST

AB 844, as introduced, Villines. State-mandated local programs: school districts.

Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing law establishes a test claim procedure for local governmental agencies to file claims for reimbursement of these costs with the Commission on State Mandates.

This bill would prohibit school districts from using the test claims provisions on and after January 1, 2010, and would instead require the commission to determine, with regard to any statute enacted on or after January 1, 2010, whether that statute imposes a mandate on school districts for which reimbursement is required by the California Constitution, and whether there is an annual appropriation made that funds the mandate's annual statewide estimated costs, as adopted by the commission. The bill would require the commission, if it determines a statute imposes that mandate on school districts, and there is no annual appropriation for that cost, to issue an order authorizing a school district

to not comply with those provisions of the statute that impose the mandate.

The bill would also require the commission to examine all statutes that were enacted on or after January 1, 1975, and not subject to the procedure specified above, and make that same determination. The commission would be required to issue a determination allowing a school district to not comply with the requirements of that statute that imposes the mandate, in a accordance with a specified schedule.

The bill would also specify a procedure for the commission to review these determinations when there is an annual appropriation and would require the commission to issue an order, under specified circumstances. The commission would be required to submit a copy of all findings and orders made pursuant to this bill to the appropriate committees of the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17553 of the Government Code is
- 2 amended to read:
- 3 17553. (a) The commission shall adopt procedures for
- 4 receiving claims filed pursuant to this article and Section 17574
- 5 and for providing a hearing on those claims. The procedures shall
- 6 do all of the following:
- 7 (1) Provide for presentation of evidence by the claimant, the
- 8 Department of Finance, and any other affected department or
- 9 agency, and any other interested person.
- 10 (2) Ensure that a statewide cost estimate is adopted within 12
- 11 months after receipt of a test claim, when a determination is made
- 12 by the commission that a mandate exists. This deadline may be
- 13 extended for up to six months upon the request of either the
- 14 claimant or the commission.
- 15 (3) Permit the hearing of a claim to be postponed at the request
- 16 of the claimant, without prejudice, until the next scheduled hearing.
- 17 (b) All test claims shall be filed on a form prescribed by the
- 18 commission and shall contain at least the following elements and
- 19 documents:
- 20 (1) A written narrative that identifies the specific sections of
- 21 statutes or executive orders and the effective date and register

1 number of regulations alleged to contain a mandate and shall
2 include all of the following:

3 (A) A detailed description of the new activities and costs that
4 arise from the mandate.

5 (B) A detailed description of existing activities and costs that
6 are modified by the mandate.

7 (C) The actual increased costs incurred by the claimant during
8 the fiscal year for which the claim was filed to implement the
9 alleged mandate.

10 (D) The actual or estimated annual costs that will be incurred
11 by the claimant to implement the alleged mandate during the fiscal
12 year immediately following the fiscal year for which the claim
13 was filed.

14 (E) A statewide cost estimate of increased costs that all local
15 agencies or school districts will incur to implement the alleged
16 mandate during the fiscal year immediately following the fiscal
17 year for which the claim was filed.

18 (F) Identification of all of the following:

19 (i) Dedicated state funds appropriated for this program.

20 (ii) Dedicated federal funds appropriated for this program.

21 (iii) Other nonlocal agency funds dedicated for this program.

22 (iv) The local agency's general purpose funds for this program.

23 (v) Fee authority to offset the costs of this program.

24 (G) Identification of prior mandate determinations made by the
25 Commission on State Mandates or a predecessor agency that may
26 be related to the alleged mandate.

27 (H) Identification of a legislatively determined mandate pursuant
28 to Section 17573 that is on the same statute or executive order.

29 (2) The written narrative shall be supported with declarations
30 under penalty of perjury, based on the declarant's personal
31 knowledge, information, or belief, and signed by persons who are
32 authorized and competent to do so, as follows:

33 (A) Declarations of actual or estimated increased costs that will
34 be incurred by the claimant to implement the alleged mandate.

35 (B) Declarations identifying all local, state, or federal funds, or
36 fee authority that may be used to offset the increased costs that
37 will be incurred by the claimant to implement the alleged mandate,
38 including direct and indirect costs.

39 (C) Declarations describing new activities performed to
40 implement specified provisions of the new statute or executive

1 order alleged to impose a reimbursable state-mandated program.
2 Specific references shall be made to chapters, articles, sections,
3 or page numbers alleged to impose a reimbursable state-mandated
4 program.

5 (D) If applicable, declarations describing the period of
6 reimbursement and payments received for full reimbursement of
7 costs for a legislatively determined mandate pursuant to Section
8 17573, and the authority to file a test claim pursuant to paragraph
9 (1) of subdivision (c) of Section 17574.

10 (3) (A) The written narrative shall be supported with copies of
11 all of the following:

12 (i) The test claim statute that includes the bill number or
13 executive order, alleged to impose or impact a mandate.

14 (ii) Relevant portions of state constitutional provisions, federal
15 statutes, and executive orders that may impact the alleged mandate.

16 (iii) Administrative decisions and court decisions cited in the
17 narrative.

18 (B) State mandate determinations made by the Commission on
19 State Mandates or a predecessor agency and published court
20 decisions on state mandate determinations made by the
21 Commission on State Mandates are exempt from this requirement.

22 (4) A test claim shall be signed at the end of the document,
23 under penalty of perjury by the claimant or its authorized
24 representative, with the declaration that the test claim is true and
25 complete to the best of the declarant's personal knowledge,
26 information, or belief. The date of signing, the declarant's title,
27 address, telephone number, facsimile machine telephone number,
28 and electronic mail address shall be included.

29 (c) If a completed test claim is not received by the commission
30 within 30 calendar days from the date that an incomplete test claim
31 was returned by the commission, the original test claim filing date
32 may be disallowed, and a new test claim may be accepted on the
33 same statute or executive order.

34 (d) In addition, the commission shall determine whether an
35 incorrect reduction claim is complete within 10 days after the date
36 that the incorrect reduction claim is filed. If the commission
37 determines that an incorrect reduction claim is not complete, the
38 commission shall notify the local agency and school district that
39 filed the claim stating the reasons that the claim is not complete.
40 The local agency or school district shall have 30 days to complete

1 the claim. The commission shall serve a copy of the complete
2 incorrect reduction claim on the Controller. The Controller shall
3 have no more than 90 days after the date the claim is delivered or
4 mailed to file any rebuttal to an incorrect reduction claim. The
5 failure of the Controller to file a rebuttal to an incorrect reduction
6 claim shall not serve to delay the consideration of the claim by the
7 commission.

8 *(e) On and after January 1, 2010, the provisions in this section*
9 *regarding the procedures for, and the filing of, a test claim shall*
10 *not apply to a school district.*

11 SEC. 2. Section 17557 of the Government Code is amended
12 to read:

13 17557. (a) If the commission determines there are costs
14 mandated by the state pursuant to Section 17551, it shall determine
15 the amount to be subvented to local agencies ~~and school districts~~
16 for reimbursement. In so doing it shall adopt parameters and
17 guidelines for reimbursement of any claims relating to the statute
18 or executive order. The successful test claimants shall submit
19 proposed parameters and guidelines within 30 days of adoption of
20 a statement of decision on a test claim. At the request of a
21 successful test claimant, the commission may provide for one or
22 more extensions of this 30-day period at any time prior to its
23 adoption of the parameters and guidelines. If proposed parameters
24 and guidelines are not submitted within the 30-day period and the
25 commission has not granted an extension, then the commission
26 shall notify the test claimant that the amount of reimbursement the
27 test claimant is entitled to for the first 12 months of incurred costs
28 will be reduced by 20 percent, unless the test claimant can
29 demonstrate to the commission why an extension of the 30-day
30 period is justified.

31 (b) In adopting parameters and guidelines, the commission may
32 adopt a reasonable reimbursement methodology.

33 (c) The parameters and guidelines adopted by the commission
34 shall specify the fiscal years for which local agencies ~~and school~~
35 ~~districts~~ shall be reimbursed for costs incurred. However, the
36 commission may not specify in the parameters and guidelines any
37 fiscal year for which payment could be provided in the annual
38 Budget Act.

39 (d) A local agency, ~~school district,~~ or the state may file a written
40 request with the commission to amend, modify, or supplement the

1 parameters or guidelines. The commission may, after public notice
2 and hearing, amend, modify, or supplement the parameters and
3 guidelines. A parameters and guidelines amendment submitted
4 within 90 days of the claiming deadline for initial claims, as
5 specified in the claiming instructions pursuant to Section 17561,
6 shall apply to all years eligible for reimbursement as defined in
7 the original parameters and guidelines. A parameters and guidelines
8 amendment filed more than 90 days after the claiming deadline
9 for initial claims, as specified in the claiming instructions pursuant
10 to Section 17561, and on or before the claiming deadline following
11 a fiscal year, shall establish reimbursement eligibility for that fiscal
12 year.

13 (e) A test claim shall be submitted on or before June 30
14 following a fiscal year in order to establish eligibility for
15 reimbursement for that fiscal year. The claimant may thereafter
16 amend the test claim at any time, but before the test claim is set
17 for a hearing, without affecting the original filing date as long as
18 the amendment substantially relates to the original test claim.

19 (f) In adopting parameters and guidelines, the commission shall
20 consult with the Department of Finance, the affected state agency,
21 the Controller, the fiscal and policy committees of the Assembly
22 and Senate, the Legislative Analyst, and the claimants to consider
23 a reasonable reimbursement methodology that balances accuracy
24 with simplicity.

25 SEC. 3. Section 17557.2 of the Government Code is amended
26 to read:

27 17557.2. (a) A reasonable reimbursement methodology
28 developed pursuant to Section 17557.1 or a joint request for early
29 termination of a reasonable reimbursement methodology shall
30 have broad support from a wide range of local agencies ~~or school~~
31 ~~districts~~. The test claimant and Department of Finance may
32 demonstrate broad support from a wide range of local agencies ~~or~~
33 ~~school districts~~ in different ways, including, but not limited to,
34 obtaining endorsement by one or more statewide associations of
35 local agencies ~~or school districts~~ and securing letters of approval
36 from local agencies ~~or school districts~~.

37 (b) No later than 60 days before a commission hearing, the test
38 claimant and Department of Finance shall submit to the
39 commission a joint proposal that shall include all of the following:

40 (1) The draft reasonable reimbursement methodology.

1 (2) The proposed statewide estimate of costs for the initial
2 claiming period and budget year.

3 (3) A description of the steps the test claimant and the
4 Department of Finance undertook to determine the level of support
5 by local agencies ~~or school districts~~ for the draft reasonable
6 reimbursement methodology.

7 (4) An agreement that the reasonable reimbursement
8 methodology developed and approved under this section shall be
9 in effect for a period of five years unless a different term is
10 approved by the commission, or upon submission to the
11 commission of a letter indicating the Department of Finance and
12 test claimant's joint interest in early termination of the reasonable
13 reimbursement methodology.

14 (5) An agreement that, at the conclusion of the period established
15 in paragraph (4), the Department of Finance and the test claimant
16 will consider jointly whether amendments to the methodology are
17 necessary.

18 (c) The commission shall approve the draft reasonable
19 reimbursement methodology if review of the information submitted
20 pursuant to Section 17557.1 and subdivision (b) of this section
21 demonstrates that the draft reasonable reimbursement methodology
22 and statewide estimate of costs for the initial claiming period and
23 budget year have been developed in accordance with Section
24 17557.1 and meet the requirements of subdivision (a). The
25 commission thereafter shall adopt the proposed statewide estimate
26 of costs for the initial claiming period and budget year. Statewide
27 cost estimates adopted under this section shall be included in the
28 report to the Legislature required under Section 17600 and shall
29 be reported by the commission to the appropriate Senate and
30 Assembly policy and fiscal committees, the Legislative Analyst,
31 and the Department of Finance not later than 30 days after
32 adoption.

33 (d) Unless amendments are proposed pursuant to this
34 subdivision, the reasonable reimbursement methodology approved
35 by the commission pursuant to this section shall expire after either
36 five years, any other term approved by the commission, or upon
37 submission to the commission of a letter indicating the Department
38 of Finance's and test claimant's joint interest in early termination
39 of the reasonable reimbursement methodology.

(e) The commission shall approve a joint request for early termination of a reasonable reimbursement methodology if the request meets the requirements of subdivision (a). If the commission approves a joint request for early termination, the commission shall notify the test claimant of the duty to submit proposed parameters and guidelines to the commission pursuant to subdivision (a) of Section 17557.

(f) At least one year before the expiration of a reasonable reimbursement methodology, the commission shall notify the Department of Finance and the test claimant that they may do one of the following:

(1) Jointly propose amendments to the reasonable reimbursement methodology by submitting the information described in paragraphs (1), (3), and (4) of subdivision (b), and providing an estimate of the mandate's annual cost for the subsequent budget year.

(2) Jointly propose that the reasonable reimbursement methodology remain in effect.

(3) Allow the reasonable reimbursement methodology to expire and notify the commission that the test claimant will submit proposed parameters and guidelines to the commission pursuant to subdivision (a) of Section 17557 to replace the reasonable reimbursement methodology.

(g) The commission shall either approve the continuation of the reasonable reimbursement methodology or approve the jointly proposed amendments to the reasonable reimbursement methodology if the information submitted in accordance with paragraph (1) of subdivision (d) demonstrates that the proposed amendments were developed in accordance with Section 17557.1 and meet the requirements of subdivision (a) of this section.

SEC. 4. Section 17558 of the Government Code is amended to read:

17558. (a) The commission shall submit the adopted parameters and guidelines or a reasonable reimbursement methodology approved pursuant to Section 17557.2 to the Controller. As used in this chapter, a "reasonable reimbursement methodology" approved pursuant to Section 17557.2 includes all amendments to the reasonable reimbursement methodology. When the Legislature declares a legislatively determined mandate in accordance with Section 17573 in which claiming instructions are necessary, the Department of Finance shall notify the Controller.

1 (b) Not later than 60 days after receiving the adopted parameters
2 and guidelines, a reasonable reimbursement methodology from
3 the commission, or notification from the Department of Finance,
4 the Controller shall issue claiming instructions for each mandate
5 that requires state reimbursement, to assist local agencies ~~and~~
6 ~~school districts~~ in claiming costs to be reimbursed. In preparing
7 claiming instructions, the Controller shall request assistance from
8 the Department of Finance and may request the assistance of other
9 state agencies. The claiming instructions shall be derived from the
10 test claim decision and the adopted parameters and guidelines,
11 reasonable reimbursement methodology, or statute declaring a
12 legislatively determined mandate.

13 (c) The Controller shall, within 60 days after receiving amended
14 parameters and guidelines, an amended reasonable reimbursement
15 methodology from the commission or other information
16 necessitating a revision of the claiming instructions, prepare and
17 issue revised claiming instructions for mandates that require state
18 reimbursement that have been established by commission action
19 pursuant to Section 17557, Section 17557.2, or after any decision
20 or order of the commission pursuant to Section 17559, or after any
21 action by the Legislature pursuant to Section 17573. In preparing
22 revised claiming instructions, the Controller may request the
23 assistance of other state agencies.

24 SEC. 5. Article 1.6 (commencing with Section 17574.6) is
25 added to Chapter 4 of Part 7 of Division 4 of Title 2 of the
26 Government Code, to read:

27
28 Article 1.6. Mandated Costs Compliance
29

30 17574.6. (a) Notwithstanding any other provision of law, the
31 commission shall determine both of the following with regard to
32 any statute enacted on or after January 1, 2010:

33 (1) Whether the statute imposes a mandate on school districts,
34 for which reimbursement is required by Section 6 of Article XIII
35 B of the California Constitution.

36 (2) Whether there is an annual appropriation made to fund the
37 mandate's annual statewide cost estimate, as adopted by the
38 commission.

39 (b) If the commission determines a statute imposes a mandate
40 on school districts, as specified in paragraph (1) of subdivision

1 (a), and there is no annual appropriation to fund the mandate's
2 estimated annual statewide cost, as specified in paragraph (2) of
3 subdivision (a), the commission shall issue an order authorizing a
4 school district to not comply with those provisions of the statute
5 that impose the mandate.

6 (c) If the commission determines a statute imposes a mandate,
7 as specified in paragraph (1) of subdivision (a), but there is an
8 annual appropriation made to fund the mandate, as specified in
9 paragraph (2) of subdivision (a), this determination shall be
10 operative only for five years, and five years from the operative
11 date of that determination, the commission shall review the statute
12 and determine whether an appropriation for those costs has been
13 made to fund the mandate's annual statewide cost estimate, as
14 adopted by the commission. If the commission determines an
15 appropriation to fund that cost estimate has not been made, the
16 commission shall issue an order authorizing a school district to
17 not comply with the requirements of the statute.

18 (d) The commission shall submit a copy of all orders and
19 findings made pursuant to this section to the appropriate
20 committees of the Legislature.

21 17574.7. (a) The commission shall examine all statutes that
22 were enacted on or after January 1, 1975, and not subject to Section
23 17574.7, in accordance with the schedule specified in subdivision
24 (b) and determine both of the following:

25 (1) Whether the statute imposes a mandate on school districts
26 for which reimbursement is required by Section 6 of Article XIII
27 B of the California Constitution.

28 (2) Whether there is an annual appropriation that funds the
29 mandate's annual statewide cost estimate, as adopted by the
30 commission.

31 (b) If the commission determines a statute imposes a mandate
32 on school districts, as specified in paragraph (1) of subdivision (a)
33 and there is no annual appropriation, as specified in paragraph (2)
34 of subdivision (a), the commission shall issue an order allowing
35 a school district to not comply with the requirements of the statute
36 that imposes the mandate, in the following manner:

37 (1) Commencing January 1, 2012, the commission shall issue
38 that order regarding compliance with a statute that was enacted
39 before January 1, 1990, but not earlier than January 1, 1975.

1 (2) Commencing January 1, 2014, the commission shall issue
2 that order regarding compliance with a statute that was enacted on
3 or after January 1, 1990, but before January 1, 2000.

4 (3) Commencing January 1, 2015, the commission shall issue
5 that order regarding compliance with a statute that was enacted on
6 or after January 1, 2000, but before January 1, 2010.

7 (c) If the commission determines that a statute imposes a
8 mandate, pursuant to paragraph (1) of subdivision (a), but there is
9 an annual appropriation to fund the mandate's estimated annual
10 cost, as adopted by the commission, as specified in paragraph (2)
11 of subdivision (a), this determination shall be operative only for
12 five years, and the commission shall review that determination on
13 a date five years after the date of making that determination. If the
14 commission determines there is no annual appropriation to fund
15 the mandate's annual statewide cost estimate, as adopted by the
16 commission, the commission shall issue an order allowing a school
17 district to not comply with that statute.

18 (d) The commission shall submit a copy of all findings and
19 orders made pursuant to this section to the appropriate committees
20 of the Legislature.

21 17574.8. On and after January 1, 2010, a school district may
22 not file a test claim pursuant to this part and shall instead be subject
23 to the procedures specified in this article.